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THE TURNING POINT MODEL STATE PUBLIC HEALTH ACT
Montana Code and Administrative Rules Comparison Table¹

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The table below provides a summary of sections of the Montana Code (MT Code) and Administrative Rules of Montana (ARM) that relate to the Turning Point Model State Public Health Act (MSPHA) [which also includes the Model State Emergency Health Powers Act (MSEHPA) developed by the *Center for Law and the Public's Health* in 2001)].² A complete copy of the Turning Point MSPHA is available at www.publichealthlaw.net. These referenced sections of the MT Code and ARM feature language directly related to the provisions of the MSPHA or that pertain to specific sections within Articles II through VII of the Act.

Statutory citations from the MT Code and the ARM were gathered with the assistance of the Montana Department of Health through online statutory resources, including Montana's State legislature's web-based statutes [available at http://data.opi.state.mt.us/bills/mca_toc/index.htm] and legal search engines including Lexis and Westlaw.³

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² See <http://www.publichealthlaw.net/Resources/Modellaws.htm> for a complete copy.

³ Title 37 of the ARM (Public Health and Human Services) is available at the DPHHS website: http://www.dphhs.state.mt.us/legal_section/administrative_rules_montana/arm_title_37/arm_title_37.htm

The table consists of three columns. The first column chronologically lists the section numbers of the substantive provisions of the Turning Point MSPHA, beginning with section 2-101 and ending with section 8-107. The second column lists sections of the MT Code and the ARM that relate to the respective MSPHA provision. Hotlinks to the relevant code sections are provided to facilitate additional review. The third column briefly describes the primary distinctions or differences between sections of the MT Code and ARM and the MSPHA provisions which they pertain. Entries related to the ARM are listed in *italics*.

While this table includes relevant sections of the MT Code, ARM, and pertinent articles of the Montana Constitution, it does not include applicable case law or public health policies in the State that might be relevant to the MSPHA.

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
2-101: Mission Statement	50-4-104 : State health care policy	MT code provides for access to quality health services, effective and efficient care, a central role for public health services and health care reform and education. However, there is no emphasis on the protection of the public's health aside from the mention of public health services in 2(d). The policy instead emphasizes the maintenance of the state health care system in the most efficient manner while still providing quality care.
2-102: Essential Public Health Services and Functions	50-1-202 : General powers and duties 50-4-104 : State health care policy 50-2-116 : Powers and duties of local boards 50-2-118 : Powers and duties of local officers	There is no reference to "essential" services and functions in the MT code. Instead, it details "general" duties of the Department of Public Health and Human Services (DPHHS) in 50-1-202 and services necessary to state health policy in 50-4-104. Duties of local health officers (50-2-118) and local health boards (50-2-116) are also listed.
2-103: Roles and Responsibilities	50-1-202 : General powers and duties Chapter 50-2 50-2-116(1) : Powers and duties of local boards 50-2-118(1) : Powers and duties of local officers 50-4-104 : State health care policy	There is no general description of the responsibilities of state and local public health agencies. 50-1-202 mentions general duties of the DPHHS; chapter 50-2 requires counties and cities to establish boards of health; and 50-2-116 and 50-2-118 list the required duties of local health officers and boards. There is no mention of individual rights as a responsibility in any of these position-specific sections. 50-4-104 mentions encouraging individual responsibility, but does not require public health authorities to implement or facilitate this directive.
	<i>37.1.101: Organization of the Department</i>	<i>This section of the ARM details the functions of the DPHHS and its individual divisions. It describes how each division should collaborate (MSPHA 2-103[b]) but the functions it lists are related more to administrative duties (i.e. budgeting, contract negotiation, program development) than to the public health mission.</i>

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
2-104: Public Health Powers - In General	50-1-202 : General powers and duties 50-1-103 : Enforcement of public health laws 50-2-116 : Powers and duties of local boards 50-2-118 : Powers and duties of local officers 50-18-107 : Powers and duties of health officers	No specific section speaks to general public health powers. 50-1-202 lists powers of the DPHHS and 50-1-103 authorizes it to enforce laws. The other sections list powers specific to given positions within the public health system. Additionally, throughout MT code, various powers related to testing, quarantine, and vaccination are mentioned, but never organized in a broader authorization section.
3-101: Public Health Infrastructure	50-1-202 : General powers and duties 50-2-104 through 50-2-107 : establishes boards of health on all levels 50-2-116 : Powers and duties of local boards 50-2-118 : Powers and duties of local officers 53-2-201 : Powers and duties of department <hr/> <i>37.1.101: Organization of the Department</i>	<p>No section discusses specifically public health infrastructure in MT, although infrastructure is referenced in various sections. 50-1-202 lists possible interactions between the DPHHS and local boards of health. Chapter 2 (“local boards of health”) discusses county, city and district boards of health and officers and their authorized duties and powers. 53-2-201 establishes the DPHHS and details its powers and duties but does not clarify how this department interacts with local health boards. The duties listed in this section are more closely related to public assistance whereas the powers and duties listed in 50-1-202 are related more to the public’s health.</p> <hr/> <p><i>While this section details the infrastructure of the DPHHS, it does not specify department goals (MSPHA 3-101[b]) and is more related to the hierarchy of the DPHHS.</i></p>
3-102: Public Health Workforce	50-2-104 through 50-2-107 50-2-116 : Powers and duties of local boards	No section specifically discusses public health leadership or credentialing for the public health workforce. Title 50, chapter 2 focuses on the roles of different public health agencies and details their powers and duties, some of which relate to leadership in appointing local health officers (specifically 50-2-116). There is no mention of certification or credentialing programs specific to public health workers.
3-103: Performance Management		No mention is made of performance management.
3-104: Accreditation of State or Local Public Health Agencies		No mention is made of either a federal accreditation program or a voluntary local accreditation program.
3-105: Incentives and Evaluations		No mention is made of incentives or evaluations.

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
3-106: Public Health Planning and Priority Setting	50-4-104 : State health care policy	No specific mention is made of public health planning. The state health care policy (50-4-104) lists some goals for the state, including the continued investigation and development of strategies to improve public health.
3-107: Public Health Advisory Council	50-4-504 : Definitions	This section defines a “health care advisory council” in reference to sections of the MT code that have since been eliminated or repealed. It is unknown whether such a council actually exists. No other mention is made of an advisory council throughout the MT code.
4-101: Relationships among Federal, Tribal, State or Local Public Health Agencies	[b]: 50-2-103 : Federal funds [d]: 50-2-106 : City-county boards of health	No section broadly discusses the relationships among federal, tribal, state and local public health agencies. 50-2-103 gives permission to use federal funds for local public health (potentially a federal-state agreement) and 50-2-106 allows for the formation of city-county boards of health (inter-local agreements). 50-2-107 authorizes the creation of district boards of health. There is no mention of inter-state agreements or tribal agreements.
4-102: Relationships among Public and Private Sector Partners	50-2-113 : Contributions by school boards and other agencies authorized 50-2-115 : Legal adviser to local boards 50-2-120 : Assistance from law enforcement officials 50-6-104 : Interdepartmental cooperation required	While there is no general discussion of potential relationships with public or private sector partners, three sections discuss specific relationships. 50-2-113 allows for monetary contributions from various agencies to local boards of health; 50-2-115 requires the county attorney to serve as a legal adviser to local boards; and 50-2-120 allows for law enforcement officials to provide assistance to state or local health officials. 50-6-104 requires cooperation between the DPHHS and the department of justice and other departments.
4-103: Relationships among Participants in the Health Care System	50-5-101 through 50-5-116 53-6-101 : Authorization of services 53-4-1003 : Establishment and administration of program	The sections of title 50, chapter 5, part 1 detail how local health agencies should interact with hospitals and other health care providers and facilities. 53-6-101 details the role of Medicaid in the provision of essential services and 53-4-1003 establishes the state children’s health insurance program.

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
5-101: Prevention and Control of Conditions of Public Health Importance	<p>[a]: 50-1-103: Enforcement of public health laws [b]: 50-4-104: State health care policy</p> <hr/> <p><i>37.114.501 to 37.114.592: Communicable Disease Control</i> <i>37.114.1001 to 37.114.1016: Tuberculosis control</i></p>	<p>50-1-103 allows for the county attorney or the DPHHS to enforce public health laws. 50-4-104 addresses guiding principles related to public health and lists principles to which MT state health care decisions should adhere. However, the principles listed in the state health care policy are concerned mainly with the quality of health care and those in the MSPHA are more applicable to public health workers.</p> <hr/> <p><i>37.114.501 states that the subsequent sections list the “minimal control measures” to prevent the spread of each specific disease and requires the DPHHS to carry out these minimal measures. This section also states that if a disease is not listed, there are no minimum requirements. Sections 37.114.503 through 37.114.592 each pertain to a specific disease and provide the control measures required by that disease. Tuberculosis control measures are provided separately in sections 37.114.1001 through 37.114.1016.</i></p>
5-102: Surveillance Activities - Sources of Information	<p>[a]/[b]: 50-16-101: Public officials and corporations to furnish information on request [c]: 50-16-5: Uniform health care information</p>	<p>50-16-101 allows the DPHHS to request public health information from both public officials and corporations. Title 50, chapter 16, part 5 requires that data be used in a confidential and appropriate manner.</p>
5-103: Reporting	<p>37-2-301: Duty to report cases of communicable disease 37-26-303: Public health duties of naturopathic physicians 50-16-702: Notification of exposure to infectious diseases 50-18-106: Duty to report cases</p> <hr/> <p><i>37.114.201 to 37.114.205: Reporting requirements</i></p>	<p>No section specifically relates to reporting like 5-103 of the Turning Point Act. 37-2-301 and 37-26-303 pertain to professional requirements and specify the duty to report communicable diseases. 50-2-118(d) requires weekly reporting of communicable diseases on forms created by the state department of health, although such reporting is not presently required on a regular basis. 50-16-702 requires a health care provider who has been exposed to an infectious disease to issue a report. 50-18-106 relates specifically to sexually transmitted diseases and mandates that health care providers report those cases that pose a risk for further infection.</p> <p>There is no mention of scheduled information sharing or of electronic reporting systems, nor is there mention of tracking data for public health emergencies.</p> <hr/> <p><i>This entire sub-section governs different aspects of reporting communicable diseases. 37.114.201 lists the persons required to report (MSPHA 5-103[b]); 37.114.203 lists diseases that are considered reportable; 37.114.205 details the required contents of a report.</i></p>

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
5-104: Epidemiologic Investigation	50-16-711 : Health care facility and emergency services organization responsibilities for tracking exposure to infectious disease	Section 50-16-711 requires that health care facilities and emergency services organizations implement individual tracking systems to monitor exposure to infectious diseases and designate a disease control officer to maintain records. However, this section is vague and there is no specific mention of investigation components or specific measures to take when investigating public health emergencies.
5-105: Counseling and Referral Services for Persons Exposed to Contagious Diseases	50-16-529 (9): Disclosure without patient's authorization 50-16-1007 : Testing, counseling, informed consent	There are no provisions establishing a comprehensive CRS program in the MT Code. Partner notification is addressed in 50-16-529 which allows a health care provider to disclose information without patient consent if the disclosure will help another to avoid imminent danger (comparable to MSPHA 5-105[b](3)). 50-16-1007 requires counseling to the patient and his/her family when testing for HIV.
5-106: Testing, Examination and Screening	50-16-1007 : Testing, counseling, informed consent 50-17-105 : Application to require examination or treatment for TB 50-18-107 : Powers and duties of health officers 50-19-103 : Prenatal blood sample required for serological test 50-19-203 : Metabolic tests	Sections 50-16-1007, 50-17-105 and 50-18-107 regulate testing for HIV/AIDS, TB and other STDs. Each of these sections discusses conditions for mandated testing and the requirement of informed consent. Screening practices are only mentioned in relation to mothers and children. Serological screening is required in all prenatal examinations (50-19-103) for certain diseases. Metabolic screening is required of all newborn babies (50-19-203).
	<i>37.114.501 to 37.114.592: Specific control measures</i> <i>37.114.1001 to 37.114.1016: Tuberculosis control</i> <i>37.57.301 to 37.57.321: Infant screening tests and eye treatment</i>	<i>Each of the sections 37.114.501 through 37.114.592 describes potential testing/screening for individual contagious diseases.</i> <i>Sections 37.57.301 through 37.57.321 discuss metabolic screening tests required for infants.</i>
5-107: Compulsory Medical Treatment	50-2-116 : Powers and duties of local boards 50-17-108 : Commitment on noncompliance with order to be examined or treated 50-18-102 : Powers and duties of department	50-2-116 allows local boards of health to provide treatment for contagious diseases and 50-18-102 allows the DPHHS to prescribe treatments for STDs. 50-17-108 requires treatment for TB upon noncompliance. There is no compulsory treatment required for contagious diseases in general.

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
5-108: Quarantine and Isolation	<p>50-1-204: Quarantine and isolation measures 50-2-116: Powers and duties of local boards 50-2-118: Powers and duties of local health officers 50-2-121: Removal of diseased prisoner from jail by local officer 50-17-108: Commitment on noncompliance</p> <hr/> <p><i>37.114.307: Quarantine of contacts: notice and observation</i> <i>37.114.308: Isolation of Patient: notice</i></p>	<p>Each of these sections designates quarantine and isolation authority to different levels of MT health officials. 50-1-204 gives authority to the DPHHS. 50-2-116(2)(a) gives authority to local health boards. 50-2-118(1)(g) gives authority to local health officers. 50-2-121 allows the removal of a prisoner from jail for quarantine in a hospital in the case of disease. 50-17-1-8 allows the quarantine of a person infected with tuberculosis while infectious and during treatment.</p> <p>There is little or no reference to the procedures for quarantine and isolation, and no provision for individuals seeking relief.</p> <hr/> <p><i>37.114.307 gives the DPHHS and local health officers the power to quarantine individuals by whatever measures necessary to prevent disease transmission. 37.114.308 requires adequate notice for an isolated patient. However, neither of these sections provides governing principles such as those listed in MSPHA 5-108[b].</i></p>
5-109: Vaccination	<p>20-5-403: Immunization required</p> <hr/> <p><i>37.114.702 through 37.114.721</i></p>	<p>20-5-403 details the immunization requirements for children entering school. There is no other mention of immunization requirements or restrictions in MT Code.</p> <hr/> <p><i>Each of these sections governs a specific aspect of the immunization of school children (including college students). There is no section that discusses the immunization of adults.</i></p>
5-110: Licenses	<p>33-30-204: Fees 33-31-311: Insurance producer license required 50-1-210: Licensing of laboratories 50-5-207: Denial, suspension or revocation of health care facility license</p>	<p>Three different sections require licensing for health service corporations (33-30-204), for insurance providers for HMOs (33-31-311) and for laboratories (50-1-210). 50-5-207 allows for the suspension of a health care facility's license under certain circumstances. However, there is no mention of licenses required to engage in activities potentially detrimental to the public's health or of general application procedures.</p>
5-111: Public Health Nuisances	<p>50-2-116(2)(i): Powers and duties of local boards</p>	<p>This section gives local boards the power to "abate nuisances affecting public health and safety or bring action necessary to restrain the violation" but does not give any further explanation as to how to identify a nuisance or specific abatement procedures.</p>
5-112: Administrative Searches and Inspections	<p>50-1-203: Public health inspections</p>	<p>This section allows the DPHHS to inspect any place where groups of people may assemble for public health deficiencies. The MT Code does not discuss administrative searches of private property.</p>

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
6-101: Planning for a Public Health Emergency	10-3-101 : Declaration of policy 10-3-105 : Division of disaster and emergency services – duties 10-3-301 : State disaster and emergency plan	Chapter 3 of Title 10 is devoted to disaster and emergency services. Section 10-3-101 details MT policy regarding emergency preparedness. It calls for the creation of local organizations for disaster and emergency services and for other planning (such as an emergency and disaster management system) but does not specifically create a planning agency dedicated to public health emergencies. 10-3-105 lists the duties of the division of disaster and emergency services but does not specifically address public health issues such as quarantine, vaccination, or infectious materials. 10-3-301 describes a general state emergency plan.
6-102: Declaring a State of Public Health Emergency	10-3-103 : Definitions 10-3-104 : General authority of governor 10-3-302 : Declaration of emergency – effect and termination 10-3-303 : Declaration of disaster – effect and termination 10-3-305 : Governor commander-in-chief – duties 10-3-704 : Local agency to contact national guard	The governor is authorized to declare a state of emergency or disaster in sections 10-3-302 and 10-3-303. Termination of these declarations is detailed in 10-3-302 and 10-3-303. Declarations must be done in accordance with the definitions of “emergency” and “disaster” given in 10-3-103(3) and (6). The necessary content of the declaration is specified in 10-3-104(3). 10-3-305 lists the emergency powers granted to the governor during an emergency and 10-3-104 lists further emergency powers granted to the governor. 10-3-704 gives local law enforcement agencies the power to request assistance in enforcing orders from the national guard. The MT Code does not mention the need for personnel to carry identification during emergencies, nor does it address the need or means for circulating public information (as described in the Turning Point MSPHA).
6-103: Management of Property	10-3-104 : General authority of governor 10-3-504 : Emergency resource management plan	10-3-104(2)(b) and (c) allows the governor to order evacuations and control the ingress/egress to and from an emergency area. 10-3-504 calls generally for the development of an emergency resource management plan. No mention is made of the disposal of contaminated material or human remains. There is no requirement to create a detailed plan for control of roads or control of health care supplies.
6-104: Protection of Individuals	10-3-101 : Declaration of policy	MT policy related to disaster and emergency services (10-3-101) makes the protection of individuals a priority. However, there is no discussion of testing, quarantine, isolation, vaccination, or treatment as related to a public health disaster or emergency. There is also no mention of access to mental health support personnel.
6-105: Private Liability	10-3-111 : Personnel immune from liability	10-3-111 provides immunity to public personnel in the case of an emergency. However, no mention is made of immunity for non-governmental agents.

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
6-106: Compensation	10-3-1216 : Cost recovery and civil remedies	This section allows a person who has rendered assistance in an emergency situation and is not a liable party to seek compensation from the responsible party by filing a civil suit against the responsible party to recover any costs not already reimbursed by the state. There is no requirement that the state compensate owners of facilities used in the event of an emergency.
7-101: Acquisition of Identifiable Health Information	50-16-525 : Disclosure by health care provider 50-16-529 : Disclosure without patient's authorization based on need to know 50-16-530 : Disclosure without patient's authorization MT Constitution, Article II, Section 10 : Right of Privacy	50-16-525, -529 and -530 govern a health care provider's ability to disclose health information and allow for disclosure for essential purposes such as research projects that have health importance. These provisions do not, however, apply to state and local public health agencies or workers. There is no mention of requirements for public notice or subsequent acquisition. The Montana Constitution guarantees a fundamental right to individual privacy without a compelling state interest. It is not clear to what extent this would apply to health information but suggests that a compelling state interest is required to justify the acquisition of identifiable health information.
7-102: Use of Identifiable Health Information	50-16-525 : Disclosure by health care provider 50-16-529 : Disclosure without patient's authorization based on need to know 50-16-530 : Disclosure without patient's authorization 50-16-603 : Confidentiality of health care information	Each of these sections discusses the use of health information. 50-16-525 does not allow its disclosure without authorization except as described in 50-16-529 (patient safety or research projects) and 50-16-530 (to protect the public's health and safety). There are requirements listed for research projects similar to those in the MSPHA section 7-102.
7-103: Disclosure of Identifiable Health Information	50-16-525 : Disclosure by health care provider 50-16-526 : Patient authorization to health care provider for disclosure. 50-16-527 : Patient authorization 50-16-529 : Disclosure without patient's authorization based on need to know 50-16-530 : Disclosure without patient's authorization	50-16-525 requires informed consent for disclosure except as described in 50-16-529 (patient safety or research projects) and 50-16-530 (to protect the public's health and safety). 50-16-526 gives a specific description of what would constitute "patient authorization" and 50-16-527 requires that health care providers retain a record of disclosures made.
7-104: Security Safeguards	50-16-511 : Duty to adopt security safeguards	50-16-511 requires a healthcare provider to effect reasonable safeguards for the security of health care information but does not detail how that information should be secured.
7-105: Fair Information Practices	50-16-541 : Requirements and procedures for patient's examining and copying	50-16-541 details the steps that must be taken if a patient requests his or her personal medical information. No mention is made of what should be done if another individual requests medical information.

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
8-101: Administrative Rulemaking	50-1-202 : General powers and duties 50-2-116 : Powers and duties of local boards <hr/> 37.2.101: Procedures for Adopting, Amending and Repealing Agency Rules 1.3.102: Model Rule 1 37.114.102: Local board rules	50-1-202 gives the DPHHS the power to make rules protecting various aspects of public health. 50-2-116 allows local boards of health to adopt rules that do not conflict with those adopted by the DPHHS. <hr/> Section 37.2.101 adopts the rulemaking procedures used by the state attorney general and found in 1.3.102. Section 37.114.102 applies specifically to rules governing communicable disease control.
8-102: Applicability of State Administrative Procedure Act	Title 2, Chapter 4 : Administrative Procedure Act <hr/> 1.7.101: Administrative Procedure Act	There is no mention of the relationship between state health officials and Montana’s administrative procedure act. <hr/> The state administrative procedure act is found in this section but there is no mention of how it applies to the DPHHS.
8-103: Procedural Due Process	50-1-103 : Enforcement of public health laws MT Constitution, Article II, Section 17 <hr/> 37.5.101: Applicable Hearing Procedure	The MT Code allows for enforcement of the state’s public health laws only through a suit in district court, which would by nature provide for due process. Although due process is guaranteed by the Montana state constitution (Article II), no specific mention is made of procedures guaranteeing due process. <hr/> Each section under this chapter describes the procedures required for hearings within each division of the DPHHS, including due process requirements.
8-104: Criminal Penalties	50-1-104 : General penalty 50-2-124 : Penalties for violations 45-1-205 : General time limitations 50-16-551 : Criminal penalty	50-1-104 states the penalty for violating a rule of the DPHHS and 50-2-124 states the penalty for violating a rule of a local health board. 45-1-205 lists statutes of limitations for criminal offenses in the state but nothing is specifically stated regarding public health violations. 50-16-551 speaks specifically to criminal penalties under the Health Care Information act.
8-105: Civil Remedies	Title 27, Chapter 1 : Availability of remedies – liability Title 27, Chapter 2 : Statutes of limitations 50-16-553 : Civil remedies 50-16-1013 : Civil remedy	Title 27 is devoted to civil remedies and chapter 1 specifically discusses when civil remedies can be sought. Chapter 2 lists statutes of limitations for various civil claims. There is no specific mention made of the procedure for civil suits in cases related to public health; however, 50-16-552 and 50-16-1013 provide for civil remedies under the Health Care Information act.

Turning Point MSPHA Provisions	Montana Code Sections	Primary Distinctions or Differences
8-106: Civil Enforcement	50-1-202 : General powers and duties 50-16-552 : Civil enforcement	The general powers and duties of the DPHHS include the enforcement of health laws through actions in court. 50-16-552 provides for civil enforcement related to the Health Care Information act.
8-107: Immunities		There is no mention of immunity specific to the state or local officials related to public health outside of emergency settings.